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REPLY TO DR. BÜCHLER'S REVIEW OF SCHECHTER'S 'JEWISH SECTARIES'

THE find of Professor Israel Lévi, to which I referred in my Announcement in the JEWISH QUARTERLY REVIEW, New Series, III, p. 485, was published in the January (1913) number of the *Revue des Études Juives*, and being admitted by the editor himself that it forms no part of the 'Fragments of a Zadokite Work', it need not be discussed in these pages. Personally, I think that the find represents a remainder of a liturgical piece of the well-known type of the Piyut of a later period. In no case has it any bearing upon the 'Zadokite' problem. I am, therefore, at liberty to offer to the readers of the QUARTERLY, in the following pages, the reply to Dr. Büchler's review of Schechter's 'Jewish Sectaries', which I promised in the announcement just mentioned, but which has been postponed on account of indisposition and absence from home.

Dr. Büchler's article, covering fifty-five pages, is written in the well-known manner of this author, which need not be discussed here. Only in one respect did Dr. Büchler deviate in this article from his usual style. For, while in his other writings he never allows the reader to see what he is aiming at until he has reached the end, he has seen fit in this article to place the results of his inquiries at the opening of his discussion, thus 'assertion taking the place of argument'. This proves that in this case Dr. Büchler had a cause to defend, a thesis to demonstrate, which made it impossible for him to study the subject in a calm and unprejudiced spirit, and to see its proper relations to facts and to the cognate literature.

I do not intend to follow Dr. Büchler in all the winding

labyrinth of his article, which would mean to reproduce here the entire contents of his fifty-five pages, in addition to another fifty-five pages or more of refutation. I am not blessed with so much loquacity as is displayed in so many reviews of this, my last publication, which only assume the virtue of briefness when acknowledgement should be made of the exploitation of my Introduction, notes, and translation. I shall prefer to deal with the main points of his Essay, and the student will readily find that the rest is in need of no reply.

Dr. Büchler opens his attack by contesting my identification of the Fragment with the Zadok book, mentioned by the Karaites, Kirkisani and Sahl ben Mazliah. It will be convenient to deal with Sahl first. I cited Sahl as one of the witnesses to the existence of a Zadok book. Dr. Büchler raises the objection that Sahl maintained that there were prominent in the 'Sadduk's book several (laws) about sacrifices; our Fragment gives no reference to such' (*BR.*¹ 432). I must first point out that Dr. Büchler omits to mention that this difficulty did not escape me; but, what is worse, is that he ignored the way in which I tried to meet it. For it was in particular with a view to this statement of Sahl that I declared that our Text must 'be defined as containing extracts from a Zadok book, representing features contained in the copies of these authorities, but, as it forms only extracts, these features may be entirely eliminated' (*S.* xxi; cp. also p. x). Indeed, a MS. which is defective both at the beginning, the middle, and the end, and is also otherwise full of gaps and *lacunae*, and the scribe of which, as a thorough study of the Text shows, must be looked upon rather as a compiler and condenser than as a copyist, cannot be expected to furnish us with all the quotations given from it by one writer or another. We have rather to be grateful that in this process of condensation and compilation, executed in a very haphazard manner, and by a man who was not able to read his text, the

¹ For the sake of brevity, I use this abbreviation for 'Büchler's Review', see *JQR.*, New Series, III, pp. 429-85. My Introduction and Translation are given as *S.*, whilst the references to the Hebrew text will be *T.*

original features of its authorities were not entirely obliterated, leaving, at least, some indelible traces leading back to its sources. When Dr. Büchler says further, 'considering that it (the Fragment) deals exclusively with the colony in Damascus, no space was devoted in it to differences between Sadducees and Pharisees on sacrifices' (*BR.*, 432), he makes a wanton statement, as no man can say what our Manuscript, and much less the original of our copyist or compiler, may have contained. The fact that he has laws about the altar (*T.*, 11, l. 18 seq.) suggests that the subject of sacrifices was not alien to him, and may have had a place anywhere in the original or even in the parts now missing. Nor is it true that even in its present state the Fragment deals exclusively with the Colony in Damascus. In this dogmatic assertion, Dr. Büchler only anticipates his own results regarding the late date of the document and the assumption that the references to sacrifices and the Temple are mere inventions. He fails to see that these are just the points at issue.

We come now to Kirkisani (fl. about 937), whose acquaintance with the history of Jewish Sects was a very wide one. In his references to a book of Zadok, he describes it as frequently denouncing the Rabbanites and criticizing them, but adduces no proof for anything he said, except for one thing, namely, the prohibition against marrying the daughter of one's brother and the daughter of one's sister. The proof Zadok adduced there is of their being analogous to the paternal and maternal aunt (*S.*, xviii). I then argued that this description of Zadok well fits in with our text, which in its Haggadah is largely polemical, while in its Halakah forms little else than mere statement. Now, against this, Dr. Büchler says :

'Our Fragment, it is true, contains strong abuse against nameless opponents, but objects only to three expressly enumerated sins. No method of interpretation, no way of deducing new rules, no extension of the law is referred to at all, and our book does in no way look or pretend to be a *general* attack of a Zadokite on the basis and development of Rabbinic law' (*BR.*, 431).

These words of Dr. Büchler show how utterly he failed to grasp the nature of the Fragment and the class of literature to which it belongs. He expects from it 'references to methods of interpretation, ways of deducing new rules'. He is probably thinking of such models as we know them from the polemics between the Karaites and Rabbanites. But the ancients did not indulge in learned dissertations. Their ways of controversy, as we are familiar with, for instance, from the Psalter of Solomon, the New Testament, the Book of Jubilees, &c., were general denunciations, wholesale accusations and indiscriminate abuse, often forming a paraphrase of certain verses in the Bible, and revealed to them by some ancient or prophetic hero of olden days, or dictated to them by their own imagining, which arrogates to itself the gift of prophecy. In the place of such authority, general charges and imputations and emphatic statements take the place of learned argument and scholastic proof. This is also the general feature of our Fragment, which feature alone at once precludes the possibility of assigning it to the age and species of literature in which Dr. Büchler tries to place it. Perhaps I may here in passing draw particular attention to the close parallel of our Fragment, *T.*, 6, ll. 15-18, to Ezekiel, the favourite prophet of the Sect, ch. 22. 26-30, and ch. 23. 38. I hope to deal with this fact more fully at another occasion.

Nor is it true that the author of our Fragment only objects to the three especially enumerated sins. These are the cardinal sins of which he accuses his opponents. But he further abuses them as the 'Children of Destruction', and implies the accusation of their committing sacrilege, of robbing the poor and the widows, or murdering the fatherless, of not distinguishing between the clean and unclean, of not observing the Sabbath and the feasts according to the interpretation, &c. (*T.*, 6, ll. 15-20). Similar accusations we have in another place (*T.*, 8, ll. 5-10), where they are further described as wallowing in the way of harlots and in the wealth of wickedness, and bearing grudge against a brother, hatred against a neighbour, and so forth.

Now, Dr. Büchler admits (*BR.*, 432) that the portion of the

law covering pp. 9-16 merely 'enumerate and give, besides frequent references to the Torah, no arguments', but he maintains that he finds that the law regarding prohibition of polygamy and divorce *does* adduce a proof derived from the Bible (*T.*, 4, l. 20, and 5, l. 6). This objection means nothing, for, apart from the fact that this is a mere citation from the Scriptures, I have explained sufficiently that in this point the Karaites differed as much from our Sect as the Rabbanites, whilst Kirkisani in this place only speaks in criticism of the Rabbanites (*S.*, xix, note 22). It was only in this criticism in which he was concerned. Dr. Büchler, in a note to p. 432, says it was not convincing. To me it seems that this is convincing enough, as certainly Kirkisani had no interest in drawing special attention or even giving sufficient heed to laws to which he objected himself, and mark the words of his opponent as a proof.

For the sake of brevity, and clearness, it would be well to pursue further Dr. Büchler's remarks on the same law (of prohibiting the marriage with a niece), which I held, as just indicated, to be one of the proofs for identifying the Fragment with the Zadokite book of Kirkisani. The remarks (*BR.*, 437-42) are very diffuse, but the drift of Dr. Büchler's argument may be summed up as follows: After reproducing in full all the material on the subject collected in an article by Dr. Poznański, to which I have referred in my notes (*S.*, xxxvii, note 21), Dr. Büchler proceeds to show that no such prohibition could have been known before the times of Anan, since we have evidence that Rabbis of the first century 'whom Geiger considered true representatives of the old Halakah (which according to Geiger was identical with or greatly influenced by that of the Sadducees) not only taught but also acted against the prohibition of marrying one's niece' (*BR.*, 438). 'Consequently, this cannot have been the occasion for its attack. All these considerations and facts clearly show that there is no proof for the assumption that the Sadducees of the first century prohibited marriage with a niece' (*BR.*, 440). This Dr. Büchler takes as proof against the authenticity of the Fragment. The display of quotations by Dr. Büchler

in this place is very imposing, but when examined a little closer his argument entirely melts away. For, apart from the fact that Geiger's hypothesis, brilliant as it was on the whole, was, as every real scholar knows, very undeveloped in its details, and that this assumption of Geiger with regard to the relation of certain early authorities of the first century to the Sadducean teaching is one of its weakest points, Dr. Büchler's argument is altogether irrelevant, as I have distinctly declared myself against the identification of the Zadokites with the Sadducees. My words were :

‘The term Zadokite naturally suggests the Sadducees ; but the present state of knowledge of the latter's doctrines and practices does not offer enough points of resemblance to justify the identification of them with our Sect’ (*S.*, xxi).

This was my reason for accepting the title ‘Zadokite’, not ‘Sadducee’, which was certainly more familiar and very tempting. In the best case, as I believe the Zadokites can only be looked upon as a sub-species of the Sadducees, there having been all sorts of Sadducees as there are, for instance, all sorts of Protestants, all opposed to the Catholic Church, but differing from each other in more or less important points of doctrine and practice. But Dr. Büchler also blunders. For apparently he does not understand his main quotation from the Talmud on which he built so much. I am referring to the historical passage in *Yebamot* 15 b, regarding the testimony of Rabbi Joshua b. Ḥanania, that there were two great families in Jerusalem which were בני צרות, but could also boast of high priests who officiated on the altar. Dr. Büchler now argues : ‘If the Sadducee priests had considered such a marriage illegal, they would certainly have eliminated the family from the Temple’ (*BR.*, 439). Dr. Büchler evidently assumes that בני צרות means the descendants from the first husbands of the צרות who married their nieces. This is a bad blunder. What it really means is that the צרות acted in accordance with the teaching of the School of Hillel, and thus married a second time as widows, not the יבם, but other members of

the community, from whom they had children (see Rashi to the passage in the Talmud *לשוק כב"ה*). The descendants of these *צרות* had accordingly no relationship whatever to the man who married a niece. The whole argument of Dr. Büchler is thus based on a misconception of the Talmudical passage. Perhaps I may point out here that, in spite of the silence of the Rabbinic sources as to any opposition to a marriage with a niece, there can be little doubt that the objection to it dated from a very early period. This is suggested by the fact that the Book of Jubilees in recording the progress of mankind in discontinuing marrying their sisters, tells us that Mahalalel took unto him to wife Dinah, the daughter of Barakiel, the daughter of his father's brother (according to another reading she was the daughter of his father's sister; cf. *ibid.*, 4. 15; 8. 6 and 11. 7, text and notes). Now, if the Book of Jubilees had held the marriage of a niece permissible, this would have been the natural first step after leaving off marrying sisters, and there would have been no need to skip over to cousins. Our Fragment, accordingly, followed the authority of the Book of Jubilees also in this respect. (Prof. S. Kraus, in *Studies in Jewish Literature issued in honour of Prof. Kaufmann Kohler*, p. 165 seq., has collected a good deal of material bearing on the question.)

The second of these laws of which Dr. Büchler treats (*BR.*, 433) is that regarding the prohibition of divorce by Zadok. Now, I interpreted lines 20 and 21 on p. 4 and line 1 on p. 5 of the Text as containing a prohibition against divorce, which served me as another proof for establishing the identity of our Fragment with Kirkisani's Book of Zadok. It is true that at first glance it looks only like a law forbidding polygamy, but one who examines this passage a little closer and puts the right emphasis on the word *בחייהם* sees at once that our author meant to forbid the man to marry a wife as long as the other was still alive. To forbid divorce directly he could not well do, as the Torah is his sole authority, but by forbidding the husband to contract a second marriage as long as the first wife is alive, he practically abolishes divorce. And I was the more justified in this conclusion as

the proof adduced by our Fragment is the same as in the New Testament, Matt. 19. 3 (in accordance with which numerals the reference to Matt. in note 5, p. xxxvi, should be corrected), which distinctly prohibits divorce. And this probability is raised to a certainty by the parallel remark in Mark 10. 6, where we have the words 'from the beginning of the creation', ἀπὸ δὲ ἀρχῆς κτίσεως, closely corresponding to our וְיִסּוּד הַבְּרִיָּאָה. When Dr. Büchler exclaims 'I am unable to see where the author prohibited or even thought to limit divorce, he exclusively deals with polygamy and re-marriage after divorce without suggesting anything against divorce itself' (*BR.*, 433), he fails to see that our Zadokite who professed to be a strict follower of the Law of Moses was not in a position to forbid divorce against the distinct law in Deut. 24. 1 ff., but he could well make divorce invalid on the ground of polygamy, and thus entirely ineffectual. Kirkisani, however, saw the consequence and recognized in it the affinity with Christianity. I may point out in passing that Dr. Büchler was probably mistaken in ascribing to Sahl b. Mazliah the prohibition of polygamy. If he will carefully read up the references in Poznański he will see that Sahl only speaks of the Levirate marriage which practically all Karaites forbid (*REJ.*, XLV, p. 62). As to Tobiah (in his *Lekach Tob*), to whom I referred in a note (*S.*, xvii, note 16), I have little doubt that he must have heard something about the Zadokite book which forbids divorce on account of polygamy, but did not quite understand the significance of it.

Next to this comes the law of the Zadokites regarding the Calendar, of whom Kirkisani maintained that 'they also fixed all the months at thirty days each. Again, they excluded the day of the Sabbath from the sum of the days besides the Sabbath; in the same way also with the Feast of the Tabernacles'. Now, I assumed on the authority of *T.*, lines 13-16 on page 3 and lines 2, 3, and 4 on page 16, that our Fragment accepted the calendar of the Book of Jubilees. The latter reads: 'As to the explanation of their ends for a remembrance to Israel of all these, behold it is exactly explained in the Book of the Divisions of the seasons

according to their jubilees and to their weeks' (see *T.*, 16, ll. 2, 3, and 4, and *S.*, lv and lvi; see also xix and xx). The passage contains one or two words which are obscure; probably corrupt. There is apparently a gap before the beginning of the passage as well as at the end (after the word וּבְשִׁבוּעוֹתֵיהֶם in *T.*, 16, l. 4), as what follows has no connexion with the preceding matter. But the reference to the Book of Jubilees is distinct enough and subject to no doubt. It is for him the authority apparently next to the Law of Moses of which he spoke in l. 2. But the main burden of the Book of Jubilees is the calendar or 'the division of the seasons according to jubilees and their weeks', and it follows logically that he accepted this division. Or does Dr. Büchler think that the author of our Fragment referred to it just because he did *not* agree with him in the main thesis? Moreover, everybody who studies the Fragment carefully will find that the strict observance of Sabbath and the Festivals and the Fast (Day of Atonement) is one of the most important laws with which the Sect was concerned, and he especially insists on the importance of making known between the holy and the profane (*T.*, 6, lines 17 and 18). Now if the Sect represented by our Fragment differed with the Book of Jubilees in the fixing of the calendar, the author of the latter work committed no less a deadly sin than desecrating the festivals and confusing the holy with the profane. The Book of Jubilees in that case would have been to him an heretical abomination, representing a congregation of sinners worse than the opponents whom he attacked so often in the course of his accusations. Would he, then, in that case, not have declared the whole Book of Jubilees as untrustworthy and opposed to the Law of Moses and to all other holy writings, instead of declaring it authoritative and referring to it so often directly and indirectly? As regards *T.*, 3, ll. 13-16, they run: 'But with them that held fast to the commandments of God, who were left among them, God confirmed His covenant with Israel for ever, revealing unto them the hidden things in which all Israel erred: His Holy Sabbaths and His glorious Festivals, the testimony of His righteousness and the ways of His

truth and the desires of His will, which a man shall do and live by them'. (See *S.*, xxxiv.) I declared the passage to be a mere paraphrase of the Book of Jubilees, 6. 34, which proclaims a different calendar. To this Dr. Büchler replies:

'In fact, however, the two passages differ materially. While Jubilees enumerates years, months, seasons, and concludes by repeating the order of years, fixing the attention on the calendar, our book mentions Sabbaths and Festivals, nothing else. But the Sabbath does in no way depend on the arrangement of the calendar; consequently, the point of view is different' (*BR.*, 436).

Now the Sabbath difficulty was, no doubt, suggested to Dr. Büchler by my note to the text (*S.*, xxxiv, n. 2), where I dealt with the matter. But if Dr. Büchler had carefully studied the Book of Jubilees, he would have seen that just this fact of mentioning the Sabbath together with the Festivals is an additional proof of our Fragment's dependence on the former. For the Book of Jubilees hardly even touches upon the calendar question without bringing in the Sabbath at the same time. Cf. 1. 10, 14; 4. 18; 6. 37-8; 23. 19. It is then clear that our Fragment was simply copying from the Book of Jubilees, and the point of view is the same. This absolute dependence of the Fragment on and the identity of the point of view with the Book of Jubilees would have become even more clear to Dr. Büchler if he had taken the trouble to read carefully the whole of page 3 of the former, and the whole of Chapter 6 of the latter. The text of the Fragment is corrupt enough, and probably there are words, if not whole lines wanting in it. But we can see his accusation of the sons of Noah. The accusation is the sin of eating blood (see *T.*, 3, lines 1 and 6, and *S.*, xxxiii, note 1). He also refers to the guilt of those who came first into the Covenant (line 10). Then he passes suddenly to the special covenant with Israel (line 13), and from this to the observance of the Sabbath and Festivals in which the rest of Israel have gone wrong. This is nothing else but a condensed extract of Chapter 6 of the Book of Jubilees, treating also of the sin of eating blood (verses 7 and 18), the relapse of the son

of Noah, with whom the first covenant was made, not to eat blood (verses 18 and 19), and then drifting into the calendar question (verses 22–38), finishing up the chapter with the words :

‘And for this reason I command and testify to thee that thou mayest testify to them ; for after thy death thy children will disturb (them), so that they will not make the year three hundred and sixty-four days only, and for this reason they will go wrong as to the new moons and seasons and Sabbaths and festivals, and they will eat all kinds of blood with all kinds of flesh’ (verse 38).

Seeing the close correspondence between the two works we may readily assume that some such word as חורש or חרשיו is missing before the word שבתות in *T.*, 3, l. 14, and so it probably was also mentioned in *T.*, 6, l. 18. It is also possible that with the tendency of the copyist to condense and to shorten in his careless manner, he thought it sufficient to indicate in a general way the existence of serious differences in the calendar between his Sect and the rest of Israel, but omitted details as known from the Book of Jubilees or relegated them to the Halakic part just as he did with the laws relating to the Sabbath (see *S.*, xx). That he addressed himself to a minority dissenting from the bulk of the nation with regard to the Calendar is further seen from the expression אשר נותרו מהם, *T.*, 3, l. 13, ‘who were left among them’, that is the remnant maintaining the patriarchal tradition as in the Book of Jubilees. What further Dr. Büchler has on the same page is chiefly based on the confusion of the Sadducees with our Zadokites, against which I distinctly warned the reader, and about which I have spoken before.

Dr. Büchler then deals with other Sectarian laws in the Zadokite fragment (*BR.*, 442–9), which of course, as he thinks, proves his case. The first of these laws is regarding the fish, which, according to our Fragment must not ‘be eaten unless they were split alive and their blood was shed’ (*T.*, 12, ll. 13, 14). This seems to contain two laws : the one is that fish are subjected to a kind of שחיטה (which is strongly suggested by the insistence

on חיים), the other, that of prohibiting their blood (*T.*, 12, l. 13). The Book of Jubilees offers no parallel to these laws. Verses 6 and 7 of chap. 6 in the Book of Jubilees (corresponding to Genesis, chap. 9, verses 2 and 4) might easily include also fish, but they are not mentioned in the specifications of verse 12, nor in those of chap. 7, verse 30, nor in those of chap. 21, verse 6. But it is worth noting that the law in chap. 7, verse 30, does not agree with the regular traditional explanation which excludes the blood of domesticated animals (בהמות), from the duty of כיסוי. As regards the שחיטה and כיסוי question in the case of fish, we must assume that this is one of the cases in which the Book of Jubilees of our Sect differed from that which has come down to us, a fact which I have pointed out on other grounds in my Introduction, p. xxix. This meets sufficiently Dr. Büchler's objection with regard to the Book of Jubilees, but he has also another argument based on a quotation from the Pirke d' R. Eliezer. It is that this work prescribed it as a duty to pour out the blood of fish. Dr. Büchler then argues:

'Considering the character and the late origin of the book, the Pirke d' R. Eliezer, it is highly probable that, as in many other cases, it includes a custom or rule which was in vogue in the place of its composition. The custom may have existed for several centuries before its inclusion in the Pirke; but it is a strange coincidence that its appearance here should point to the same period as its occurrence in Karaite and Samaritan law and as in the Zadokite fragment. All proves that the latter originated in the seventh or eighth century' (*BR.*, 443).

Now, it would not prove anything against the antiquity of our Fragment even if the Pirke d' R. Eliezer had this law. The fact that a usage occurs in a book dating from a certain century does not imply that it was unknown before; and the occurrence only becomes strange because Dr. Büchler wants to make it so. And the further circumstance that the book happens to be the semi-apocryphal Pirke d' R. Eliezer, only shows the sectarian character of this usage. Prof. Israel Lévi, who was the first to draw

attention to this passage in the Pirke, did not derive from it the same conclusion as does Dr. Büchler. But the fact is that Dr. Büchler has mistaken the sense of the Pirke. The words in the Pirke: **אֵלֹ שֶׁנִּבְרְאוּ מִן הַמַּיִם דָּמֵן נִשְׁפָּךְ כַּמִּים** mean simply that the blood of fish is not subject to the law of **כִּיסוּי** (cf. the phrase **נִשְׁפָּךְ כַּמִּים**, *Hullin* 84 a) in contrast to the animals **שֶׁנִּבְרְאוּ מִן הָאָרֶץ דָּמֵן לִכְסוּת בַּעֲפֹר**. If the Pirke is in any way reminiscent here of anti-traditional law, it is to be sought in this second clause, including, as it does, also **בַּהֲמָה**, and thus agrees with the Book of Jubilees, 7. 30, a law which is also otherwise known from an heretical argument which the rabbis took the trouble to refute (see *Sifre* 89 b, *Hullin* 84 a; cf. Singer, p. 199; cf. also Luria's emendation of the text in this place, for which there is no real need. See also *Pesikta Rabbathi*, ed. Friedmann, p. 61 a and notes). Of course, the words **אֵלֹ שֶׁנִּבְרְאוּ מִן הַמַּיִם** must not be pressed too far, referring only to **דְּגָיִם וְחַגְבִּים**, but excluding **עוֹף**. In no case had this passage of the Pirke any bearing upon the question of the prohibition of blood of fish, or of **חֲגָבִים**. Of more importance is his reference to the well-known passage of the interpretation of Jacob of Kefar Nibburaya (of the fourth century), according to which fish are subject to the law of the **שְׁחִיטָה**. The reference to this passage was only omitted by an oversight in my commentary, as I find I had a reference to it in my MS. notes. All it proves is that such an anti-traditional interpretation was already known in the fourth century (see Dr. Israel Léwy (Seminarrabbiner in Breslau) in *Hammaggid*, 1870, pp. 245-53). This sectarian, however, certainly did not invent this interpretation, but merely accepted it from the teaching of an old Sect with which he became acquainted.

Next comes the law regarding **נדה** of which Dr. Büchler says that it seems to 'point to much earlier times' (*BR.*, 445), but somehow manages to arrive at the very opposite result. The opponents of the Sect are accused that they 'contaminate the Sanctuary (**הַמִּקְדָּשׁ**) as they separate not according to law and lie with her who sees the blood of her issue' (*T.*, 5, ll. 6 and 7). As no amount of research could, as far as I saw, determine the

exact nature of the transgression, I considered it sufficient to give a reference to the chapter by Wreschner (*S.*, xxxvi, n. 15) on the subject. There the differences between the Samaritans, the Sadducees, and the later Karaites on the one hand, and the Pharisees on the other hand, regarding the colour of the רמ"ם or the counting, are pointed out, all of which involve in the end a contamination of the Sanctuary. Dr. Büchler failed to discover a difference not mentioned by Wreschner, but this did not prevent him from reproducing the passages referred to by this author in addition to a few other Rabbinic passages known to everybody who has ever read anything on the Sadducee problem, but which shed no fresh light on the words of our Fragment. But after this display of learning Dr. Büchler says: The express reference to the Temple (המקדש), p. 5, l. 6, seems to support that date, and to prove the book as having been composed before the year 70 (*BR.*, 447). This, however, is not satisfactory to Dr. Büchler, and he proceeds to say:

‘On the other hand, we know that not only Samaritans and Jews in the twelfth century differed on the same point, but also the Karaites of the same time. As Saadya attacked the Karaites on this point, it is very probable that Anan had already adopted and taught the Sadducee view; and as Kirkisani, when dealing with the matter, does not refer to the Book of Sadduk, this source probably contained nothing about it. As מקדש can mean the Synagogue to which, according to Anan, the same laws of purity apply as to the court of the Temple, there is no argument or proof against the conclusion derived from the consideration of other legal points that the Zadokite fragment was composed shortly before the time of Anan’ (*BR.*, 447).

This is quite in keeping with the manner of Dr. Büchler’s argument. First Kirkisani’s silence serves him as an argument, as if there were the least indication that this Karaite author intended to write a dissertation on the differences between the Zadokites and the Rabbanites. He put on record the existence of the Sect as opposed to the Rabbanites, and gave certain striking

illustrations of their teachings which he deemed sufficient for this purpose. Then Dr. Büchler remembers that Anan interprets *מקדש* to mean a synagogue, and as it *can* bear this interpretation with the Karaites it *does* stand in our Fragment for a place of worship, and thinks his case proved. But as a fact, *מקדש* in the Fragment, at least where mention is also made of the altar, can, as in the Bible, only mean a sanctuary, with an altar and sacrifice, not a synagogue. Even the Karaites and certain Rabbanites (see Horowitz, *תוספתא עתיקתא*, IV. 10. 52, 56, and V. 26, 33, where the whole of the literature bearing on the subject is given), who in their desire to have certain laws regarding Levitical purity or tithes and reverential behaviour extended also to the Synagogue, have occasionally explained *מקדש* to mean this institution, never speak of it as the *מקדש* without any further specification. All they say is that *מקדש* should include also the place of worship of the Diaspora, but they never call it *מקדש*, whilst our Fragment speaks simply of a *מקדש* without any further definition, and hence it can only mean a sanctuary which has also an altar and sacrifices.

Perhaps it may in this connexion be remarked that it is not impossible that the differences alluded to by our Fragment relate to the question of *דם טהור*, which, according to Geiger (*קבוצת מאמרים*, Berlin, 1877, p. 163), formed an ancient difference between the Sadducees and the Samaritans on the one hand, and the Pharisees on the other. The controversy turned, according to Geiger, about the words *טהרה ברמי טהרה*, which the opponents of the Pharisees read with a *Mappik*, but of which it is clear that the Book of Jubilees (3. 10) had the same reading (see Rönsch, *Das Buch der Jubiläen*, p. 515). Considering the close connexion of the Fragment with the Book of Jubilees, it was more likely that it was this difference which he had in view in his accusation of the opponents of his Sect. I must state, however, that this hypothesis of Geiger is still a contested point (see D. Hoffmann, *Das Buch Leviticus*, I, p. 360).

The other law relating to Levitical Purity, with which Dr. Büchler deals, is one connected with *טומאת מת* (see *T.*, 12, ll. 15, 16, 17; and *BR.*, 448 and 449). His remarks sound very

learned, the Doctor indulging in geographical limitations, speaking of 'the Halakic Midrash by Rabbis of the school of Jamnia and Lydda' and questioning their early origin (see *BR.*, 449). As far as I know, it is generally supposed that such Midrashim invented no new laws, and only endeavoured to find a basis in the Scriptures for Halakhas current long before their period as mere traditions. However, be this as it may, there is no doubt that Dr. Büchler is so much occupied with what looks like the higher criticism of the Talmud that he has no eye for the plain meaning of our passage. The real difference between the *Halakah* as taught by our Fragment and that by other Schools, is not the question of degrees of טומאה, but of טומאת אהל, which, according to the latter, attaches itself only to a movable tent made of certain stuffs (see Maimonides, *Hilkot Tum'at Met*, 5. 12, and authorities given there in the commentaries), whilst, according to the former (the Fragment), it extends also to a regular house made up of stones, beams (of wood) and clay, as in the case of טומאת צרעת, in which the עצים ואבנים והעפר (*T.*, 12, ll. 15, 16; cf. Lev. 14. 45) all become unclean. The question of the interpretation of this law is discussed at length by Hadasi in his *Eshkol*, *Alphabeta*, 290 (which was, however, not accepted by the later Karaites; see Mibhar to Num. 19. 14). This, however, does not preclude the possibility that some ancient sect interpreted the law of טומאת אהל in a similar way.

The next three pages (*BR.*, 449-52) of Dr. Büchler's article are taken up with the argument to prove that our Fragment is 'not Dosithean'. Considering the contradictory and confusing nature of the Dosithean documents, it is very easy to 'pick holes' into any argument attempting to identify this Sect with any other of the constitutions and laws of which we happen to have some more distinct information. But, as a fact, I have never tried to identify it. What I have said is that, 'contradictory as these documents may be in other respects, they offer the one or the other traces of the characteristics of our Sect which suggest, if not an identity with, at least the descent from our Sect which should be noted here' (*S.*, xxii). And these traces will be clear to any

one in spite of all attempts to obliterate them. The Zadokite claims are the same with both Sects. The Solar Calendar is a feature of our Fragment in spite of everything said to the contrary. Certain marriage laws agree again in the main with the more strict Dosithean ones, which is also the case with regard to the Sabbath laws. If they do not agree in every particular and offer no more than reminiscences suggestive of identity, it is to be ascribed to the defective state of our MS., on the one hand, and the lack of accurate information and absolute ignorance of Jewish law and Jewish doctrine on the part of those who wrote about the Dositheans on the other hand.

Another objection of Dr. Büchler is that the Sabbath laws in our Fragment, if derived from the Book of Jubilees 'would naturally have been arranged in the same or a similar order as Jubilees have them' (*BR.*, 451), as well as his other objection that a certain law is missing from our Fragment, are entirely removed by the consideration of the peculiar, defective, confused character of our Fragment pointed out above, which we need not repeat here. On the other hand, it should be observed that the Book of Jubilees itself has two sets of Sabbath laws, the one in the second and the other in the fiftieth chapter, which are far from agreeing, either in the order of their laws or in their contents. The one in chap. 50 looks more like a supplement and suggests that the author had two versions of the Sabbath laws, both of which he incorporated in his work. It is thus not impossible that our Fragment had a third version which he followed in his composition. Perhaps we may dispose here in this connexion of Dr. Büchler's note 66 to p. 452. In this, Dr. Büchler insists that the word בִּלְבוֹנָה (*BR.*, 11, l. 4) does not mean incense, but 'powder of a pounded brick', his authority being the words עֹפֶר לְבִינָה in *Tractate Shabbat* 50 b. If Dr. Büchler had looked up the Aruk (Kohut), he would have seen that the more ancient commentators, like R. Ḥananeel, explained those very words to mean incense (cf. also Aruk, and Dr. Kohut's note to it—the same edition under the root עֹפֶר), and it is clear from the context in the Talmud there that this

is the true interpretation against the other commentaries. The other remarks by Dr. Büchler in the same note that this law refers only to Sabbath, is, to say the least, arbitrary. We have a good parallel to it among the Falashas (see *S.*, xxv).

Dr. Büchler then has a paragraph 'Rabbinic Influence' (*BR.*, 452-7). This he endeavours to prove from certain laws in which our Fragment agrees with the Rabbinic Law. The reader will find that I faithfully gave the rabbinical references in almost all the cases cited by Dr. Büchler. But does this prove that the Sect accepted these laws from the Rabbis? Take the one, for instance, concerning the importance of the priest (see *S.*, ii, n. 22, and *BR.*, 453), in which our Fragment agrees with the well-known interpretation of Hillel, which only proves that this was a very old Halakah. But certainly our Sect with its special deference to priests was more likely to have inaugurated it than their opponents. The other Halakot to which Dr. Büchler refers concern mostly the organization of the Sect and its relation to the surrounding tribes, which is certainly in most particulars peculiar to the Sect, and there was no need for borrowing.

Dr. Büchler's remark about the Ban is also irrelevant. It will be noticed that our Fragment never mentions the word חרם, though it may be remarked in passing that the question of the origin and the antiquity of the Ban is by no means settled yet (see Dr. Aptowitzer's remarks on this subject in the July number (1913) of this Review, pp. 41-4). A certain correspondence of expressions in connexion with the Ban between the Karaite and the Rabbanite sources suggests that they both derived it from some older sources. But such an exclusion and separation as our Fragment suggests has precedent enough in Ezra 10. 8, whilst the words, again, that 'the saints of the Most High have cursed him' (*T.*, 20, l. 8) suggest nothing of the formula of the Ḥerem, but having described the opponents to or the backsliders of the sect as משיני גבול (*T.*, 19, ll. 15, 16; cf. *T.*, 1, l. 16, and *T.*, 5, l. 20) they naturally fall with him under the curse of ארור of Deut. 27. 17.

What Dr. Büchler says about the ספר ההנו (*BR.*, 452,

n. 68), on which he has a long note in which he tries to discover a sort of Oral Law, so as to make our Fragment agree with a certain passage in Anan, is mere talk. If the *הגו* is Oral Law, then it was not in a book and cannot be a *ספר*.

On p. 455 (*BR.*) Dr. Büchler has a good deal to say about the Confession in *T.*, 20, ll. 28, 29, and 30. Dr. Büchler somehow manages to correct there the text after some rabbinical formula of confession, and then exclaims: 'The author knew the confession in the Liturgy of the Jews in Talmudic times, therefore the book could not have been composed before then.' But the fact is that the MS. in this case was absolutely illegible, so it is impossible to say what the exact formula was. Indeed, Dr. Büchler fails to tell us what his authority was for his filling in the gap in the text. As it stands, we have only references to it in Lev. 26. 40, which undoubtedly has also its echo in Nehemiah.

On p. 465, Dr. Büchler speaks of the phenomenon of our Fragment that the Sect cites so much of the Prophets, and even the Hagiographa, in the interpretation of the law (*Halakah*). Dr. Büchler thinks that this cannot be Sadducean, and detects in it Karaitic influence. As usual with Dr. Büchler's discoveries in this Fragment, he only repeats facts in more or less paraphrastic language, to which I drew attention in my Introduction (see *S.*, xv). However, if Dr. Büchler had read Chayes's *תורת נביאים*, and especially Weiss's *Zur Geschichte der jüdischen Tradition*, IV, p. 76, he would have seen that this feature of illustrating Halakahs by prophetic matter is not exclusively Karaitic, and that the Rabbis employed this method to a much larger extent than generally thought by their opponents, and this was the reason that I laid no stress on the fact at all. It is even more remarkable that in the case quoted above, regarding the question whether fish are subject to the rite of slaughtering, it is the Rabbi who supports his thesis by a verse in the Hagiographa, whilst it is the heretic who protests against its use in proving legal cases. When Dr. Büchler at the end of the paragraph quotes 'The strange Derashot', on pp. 7, 14, and 21, and says that he knows no parallel to this peculiar interpretation except in Anan's writing,

I should be obliged indeed if Dr. Büchler could point out a passage in Anan which would form a parallel to such a Derashah. Moreover, if Dr. Büchler had taken the trouble to examine version B (*T.*, 19), running parallel with this page, he would have found that this whole Derashah is omitted there, and it is probably only a mere interpolation by some later scribe.

Dr. Büchler comes now to the question of 'Temple and Sacrifices'. As every reader will convince himself, he offers no argument which, in any way, needs a refutation. Having made up his mind that the Fragment is of late date, he endeavours to show that the Fragment describes conditions of a Samaritan colony somewhere in the seventh century. He is 'fully conscious of the difficulties of assigning our Fragment to a Samaritan author; the frequent reference to the Prophets is quite sufficient to exclude a Samaritan'. But he 'sees no possibility of accounting in any other way for the worship of sacrifices in the community of emigrants in Damascus' (p. 459). This confession on the part of Dr. Büchler is enough to condemn the whole theory, and needs no further comment. And when he further describes them as 'Arab Bedouins', and finds support for his theory in the fact that special warning is given to them that they should not defile themselves with creeping animals, honey, and animals living in water, and that fish and locusts require special treatment, which, according to them, clearly indicates that the settlements were in places where such animals were to be found, and were used as food (see *BR.*, 461), then we can only say that Dr. Büchler overreaches himself here, sinking to the lowest depths of the higher criticism. Does not Dr. Büchler believe that the Halakot relating to these very cases scattered over the tractates *Hullin*, *Bekorot*, *Keritot*, *Okezin*, and elsewhere testified to their Bedouin origin? We may say the same thing about the matter following in the next two pages, which offer nothing but wild guesses not established by any argument worth quoting or refuting.

The next paragraph is headed 'Settlement around Damascus' (pp. 461-7). This long paragraph contributes nothing to the understanding of the text or to the clearing up of the history of

the Sect. Dr. Büchler says, 'Read the picture which Grätz draws of the Jewish tribes in Arabia shortly before Mohammed, and you will be struck by the naturally close parallels with the passage quoted. But in the first century nothing is known of the existence of such tribes, especially around Damascus' (*BR.*, 462). Now, I had read Grätz before Dr. Büchler gave us this sage advice, and I read him again and still fail to see that it offers the slightest parallel to the constitution of the Damascus colony, its aspirations, and its aims. It is rather amusing to see Dr. Büchler working himself up into a regular moral indignation about the contents of *T.*, 12, ll. 6, 7, and 8 (*BR.*, 462). Dr. Büchler would perhaps have become less declamatory had he been familiar with the contents of Berakot 3 b, where he will find something similar, though different in wording, the latter having more historical embellishments.

Dr. Büchler has then a great deal to say about the מבקר (*BR.*, 463, 464), but no explanation of the obscure office is forthcoming; nor does his remark (*BR.*, 462) on the strange טהרה (*T.*, 9, l. 21) explain anything. Nehemiah 12. 45 (משמרת הטהרה) offers something of a parallel, but its meaning in the Fragment has to be taken locally as given in my notes. Dr. Büchler has also nearly a full page about the question of the annulment of vows, where he speaks of a specimen of a very strange interpretation of Num. 30, which is offered on p. 16, which it seems to him has been misunderstood (see p. 465). Lines 1 and 2 on *T.*, 16, which Dr. Büchler cites in note 104, p. 465, in connexion with the preceding matter now missing, has no bearing upon the question of vows. The reference to the Book of Jubilees shows this sufficiently. Now, Dr. Büchler finds that there is no difference between the law of annulment as taught by the Sect and that as taught by the Rabbis. I must say that I understand Dr. Büchler even less than I did the Fragment. As a fact, I have laid very little stress on these differences, distinctly declaring that the text is so 'defective in that place that the meaning must be considered doubtful' (*S.*, p. xviii, n. 20). Yet, in spite of Dr. Büchler, there are differences. The main difference would consist in this, that the Text confined the annulment

of vows to the case of a **דבר מצוה**, which is, of course, against tradition.

Dr. Büchler has another full paragraph, on the 'Language of the Book' (*BR.* 467). As Dr. Büchler mentions, I have myself directed the attention of the students to expressions pointing to a later date (see *S.*, xi). Dr. Büchler finds my explanation precarious, which it certainly is not, in consideration of the fact that the MS. passed through different phases and probably was touched by different hands. To the Arabism **בית השתחווה** (*S.*, i, n. 4) I have also referred, and have remarked that it may perhaps be ascribed to the influence of some Falasha scribe. Dr. Büchler, however, gives another list of Arabisms, and he will allow me to doubt his authority in this matter. When Dr. Büchler exclaims, 'How else is to be explained 3. 21 **ביר יחזקאל** אל להם כאשר הקים' as God promised them?' (*BR.*, 469, n. 118), I must remark that **הקים** does not mean *promise* but *confirm*, namely, **בריתו**, which is only missing here. When Dr. Büchler says that the most striking feature of the language, however, is the continuous employment of whole phrases and sentences of the Bible, the like of which we find in none of the literary productions of the pre-Christian, pre-Talmudic, and Talmudic times (see *BR.*, 467), I should like only to say that he is a little too dogmatic in his statements. Cf. Weiss, **משפט לשון המשנה**, p. 53, where we read the following: 'The Mishnah likes to make use of the language of the Bible and whole phrases,' and then proceeds to give a number of illustrations to this fact. If Dr. Büchler would further carefully examine, for instance, the wording of the well-known story of King Jannai (*Kiddushin* 66 a) and the dirges in *Mo'ed Qatan* 25 b, he will find that the employment of phrases and sentences from the Bible in Talmudic times was not so rare as he believes. Nor is indeed the language of Ben Sira of such a 'contentious character' (*BR.*, 467) as Dr. Büchler thinks. To the majority of scholars this point is not any longer 'contentious'.

What Dr. Büchler further has to say about the historical part (*BR.*, 470-77) need not be treated here in detail. He certainly does not elucidate a single point either with regard to the 'man

of scoffing', or to the appearance of the 'Only One', or to the 'penitence of Israel', or to the meaning of the 'fence-builders' and similar obscurities. In his analysis of *T*, 2 and 3, his task would have been a much easier one if he would have thought more of the Book of Jubilees, which permeates all the contents of these pages, and other places. But I must certainly admire his imaginative faculty when he speaks of the immigrants from their native country who left behind their property and income derived from it, and knows exactly that 'only few may have brought money with them and bought fields', and knows further that 'there were proselytes among them, some of whom may have joined the Sect in the hope of support', and thinks that this was the special reason for emphasizing the 'duty to love one's brother, and to support the poor, the needy; and the proselyte (6, 20, 21) had, therefore, especially to be mentioned' (*BR.*, 477). Of course I hardly need say that all this is nothing more than an echo of Jubilees 7. 20, 20. 2, and 36. 3 and 8 (to which some parallel may also be found in the Testament of the Twelve Patriarchs). This is evident from the fact that these positive humane laws in our Fragment are followed by a warning against fornication. The fact, again, that we have here אחיו (brother) instead of רעהו (neighbour) points also to the Book of Jubilees. But it was not, of course, in the plan of Dr. Büchler's interpretation to draw especial attention to the Pseudepigraphic character of our Fragment.

The same thing may be observed of Dr. Büchler's next paragraph, 'Authenticity of the Book' (*BR.*, 477-81). It is very diffuse, and offers no real instruction, but we may quote here the following passage:

'As there is no statement in Jewish literature to confirm the report of the Fragment, what could be adduced to confirm the truth of its contents? Or is the whole book an invented story to prove the origin of a Sect that lived in the district of Damascus in the seventh or eighth century, and to defend its peculiarities as to worship, constitution, and religious law? Could then the list

of the sins blamed on the opponents suggest the time and the character of the author?' (*BR.*, 478).

What Dr. Büchler puts here as a query becomes in the next paragraph a certainty with him, and he comes to the conclusion that 'our Fragment is nothing else but a construction of history of his Sect, invented to show that the Sect has already existed in early times, and that the differing practice of the Jews was wrong and followed the teaching of an unworthy, rebellious teacher, and of a company that was punished by God'; whilst in note 146 (*BR.*, 483) he adds: 'It is not improbable that also the sacrifices and the Temple were not in existence, but an invented detail.' This is the conclusion of Dr. Büchler, after he proves to his own satisfaction that the Sect knows nothing about Jerusalem, &c. (*BR.*, 481). He even invents a new Book of Jubilees which was at the disposal of the author of this Fragment (*BR.*, 480), of which, practically, we know nothing, but the fact that a copy of the Book of Jubilees was to be found in the library of the Academy.

The preceding remarks will, I believe, suffice to show the fallacy of Dr. Büchler's argument in its main points, whilst the student will further find that the points not touched upon in this refutation are irrelevant to the question of date, and never conclusive. To enter into a further discussion with regard to these unconvincing details will carry this article to a length which, as already indicated at the opening of these pages, I consider undesirable and superfluous. But the reader will be better able to see through the deceptive nature of Dr. Büchler's argument if he will bear in mind the following facts plainly shown by the whole drift of his criticism. Studied carefully, it will be found that Dr. Büchler constantly confuses the Sadducees with the Zadokites, against which I distinctly warned the student. He further ignores, or is unable to conceive, the peculiar character of the MS. forming, as I have pointed out, a mere extract or a faulty and crude condensation of older sources. He also assumes in most places that a custom or usage mentioned in a work dates exactly from the time when this work was compiled. I must further

point out that when Dr. Büchler maintains that according to my exposition, 'also the time of the foundation of the Sect in the year 176 B.C., is to be taken as exact' (see *BR.*, 477-8), he certainly misrepresents me. Anybody who carefully read my Introduction will find that I had my serious misgivings about the determination of the period of the beginning of the Sect. What he thinks of is probably my explanation of the first lines of the Fragment, where I gave the date of 176, but distinctly recorded my doubts as to the correctness of the reading there, which doubts, in addition to other reasons, made me declare that 'we are practically left without any definite date' (see *S.*, xxii and xxiii). But worse than all this is the display of his utter inability to deal with a production of this character. For it shows his incapacity of entering into the spirit of our Fragment, forming a species of its own, not falling within the range of Dr. Büchler's acquaintance. Otherwise he would certainly be more sensible to the peculiar character of this document, and would not be satisfied by such cheap explanations as to declare it a mere forgery, or a construction of history of a later date. Can Dr. Büchler point out in the whole literature produced between the composition of the Mishnah and the very last production of the last Gaon, Rabbinic or Karaitic, Halakic or Haggadic, devotional or polemical, poetical or historical, a single passage resembling this Fragment in style, diction or terminology, or manner of attack? Any student with something of a familiarity with ancient Jewish literature would at once have been struck by the strange character of this text, and recognized that it belongs to a class of composition to which none of the Hebrew writings of the first ten centuries of our era offer a parallel. It is this strikingly strange character and the impossibility of assigning it to any department of literature known, which must lead the student to look to other fields than those accessible to us from the Rabbinic or Karaitic writings. I know of nothing similar to Dr. Büchler's way of argument except Bacharach's long discussion of the 'Book of Jubilees' in his *ירח למועדים*, which he declared to be a Karaitic forgery,

but it has at least the merit of showing a very intimate acquaintance with Rabbinic literature.

In conclusion, I may be permitted to make the following general remark. In my Introduction I uttered the following words: 'The condition of our text precludes certainty and invites difference of opinion.' This difference of opinion came, as I foretold, in many different reviews, articles, and translations, which could now fill a fair-sized shelf by itself. However, this circumstance did not prevent me from reading most of what has appeared in this department with more or less profit. The only exception are papers appearing serially in periodicals, as I have an inveterate objection to reading scientific matter in instalments.

Another exception is also Dr. Charles's translation and commentary of this Fragment. It is one of the books which can wait. But I learned through the papers of his complaint about my refusal to let him have a facsimile of the MS., which meant practically a second edition of the Hebrew text. This was a thing which I had to decline, not only because I was contemplating a second edition of the text, accompanied by full facsimile, which would have given me the opportunity of improving and correcting errors and misprints (which privilege of editing texts correctly was the only reward which I have ever received from my labours in the Genizah for nearly these last eighteen years), but also because I considered the new Canon of Westminster not fitted for such a task. When Dr. Charles cabled to me for permission to make use of my English translation I granted it at once, as I knew that he was in need of it, and as far as I understand, it did do him much good. From a friend who made a careful study of Dr. Charles's edition I learn that he derived a great deal of benefit from my notes and Introduction, copying occasionally even my mistakes. However, with this question and many others besides I hope D.V. to deal in a work on the Zadokite Fragments which will contain also a full facsimile of the manuscript.

New York.

S. SCHECHTER.